

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-15-90050

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In re Complaint of John Doe<sup>1</sup>

This is a judicial complaint filed on November 13, 2015, by a state prisoner against a federal district court judge. The district judge allowed the complainant to proceed in forma pauperis when he filed a pro se action under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, as a qui tam relator. The district judge advised the complainant he would need to pay the full \$350 fee for filing his lawsuit, even if it was later dismissed. The district judge eventually dismissed the complainant's case.

The complainant suggests the district judge should have “ma[de] a determination as to whether there was a legal basis to file the claim” before granting his request to proceed in forma pauperis. According to the complainant, because one of the district judge's reasons for dismissing his case—his ineligibility to pursue an action on behalf of the United States without a lawyer—would have been apparent on an initial review, she should have denied his request, so he “would not have been stuck with paying the \$350.” By allowing the complainant to proceed with his unsuccessful lawsuit, the complainant alleges, the district judge committed “a form of fraud.” That allegation must be dismissed because it is “directly related to the merits of [the district judge's] decision” to give the complainant what he asked for and let him proceed in forma pauperis. 28 U.S.C. § 352(b)(1)(A)(ii); accord Judicial-

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<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B).

The complainant's allegation that the district judge's supposed fraud was part of "a pattern of this type of practice" undertaken by the district court on which the district judge sits "as a means to generate fees for the Court" also must be dismissed. An allegation that a judge had an improper motive for ruling a certain way is not necessarily related to the merits of the judge's decision, but here the complainant does not provide any support for his allegation other than the decision itself. See J.C.U.S. Rule 3(h)(3)(A). The allegation is also "frivolous" and "lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); accord J.C.U.S. Rule 11(c)(1)(C), (D).

The complaint is dismissed.

December 29, 2015

  
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William Jay Riley, Chief Judge  
Eighth Circuit